

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

WYETH, )  
            )  
Plaintiff, )  
            )  
v.           )           C.A. No. 06-222 (JJF)  
            )  
IMPAX LABORATORIES, INC., )  
            )  
Defendant. )  
            )

**CONSENT JUDGMENT**

As a result of the parties having executed the Settlement and Release Agreement dated June 9, 2008 and the License Agreement (as defined in the Settlement and Release Agreement), the Court hereby Orders:

- 1) Until the expiration of U.S. Patent Nos. 6,274,171 B1, 6,403,120 B1 and 6,419,958 B2, Defendant shall not, and shall cause its affiliates to not, make, use, sell, offer for sale, or import the extended-release venlafaxine hydrochloride capsules that are the subject of ANDA 78-057, except as and to the extent permitted under the License Agreement.
- 2) Defendant, on behalf of itself and its affiliates, stipulates to the validity of claims 20-25 of U.S. Patent No. 6,274,171 B1, claims 1, 2, 13 and 14 of U.S. Patent No. 6,403,120 B1 and claims 1-6 of U.S. Patent No. 6,419,958 B2.
- 3) Defendant, on behalf of itself and its affiliates, stipulates to the infringement of claims 20-25 of U.S. Patent No. 6,274,171 B1, claims 1, 2, 13 and 14 of U.S. Patent No. 6,403,120 B1 and claims 1-6 of U.S. Patent No. 6,419,958 B2, to the extent, and only to the extent, such infringement relates to the making, using, selling, offering for sale and/or importing of the extended-release venlafaxine hydrochloride capsules that are the subject of ANDA 78-057 and only to the extent such activities are not being conducted as permitted under the License Agreement.
- 4) Defendant, on behalf of itself and its affiliates, stipulates to the enforceability of U.S. Patent Nos. 6,274,171 B1, 6,403,120 B1 and 6,419,958 B2.
- 5) Defendant's Counterclaims of patent invalidity, unenforceability, and non-infringement are dismissed with prejudice.

6) The Settlement and Release Agreement and the License Agreement entered into between the parties, which have been filed with this Court under seal, are adopted by the Court as part of this Consent Judgment.

7) Each party shall bear its own costs.

8) This Court retains jurisdiction to enforce this Consent Judgment, the parties' Settlement and Release Agreement and the Definitive Agreements (as defined in the Settlement and Release Agreement).

SO ORDERED.

  
Joseph J. Farnan, Jr., U.S.D.J.  
7/15/08